IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 24866 of 2003

Between:

M. Venkateswarlu, S/o. Seetharamaiah
Occ: Junior Assistant (Materials), APSRTC, Zonal Stores, Vidhyadharapuram, Vijayawada - 500 012.

..... PETITIONER

AND

1 The A.P. State Road Transport Corporation, represented by its Vice Chairman

and Managing Director, Musheerabad, Hyderabad.
2 The A.P. State Road, Transport Corporation, Represented by its Executive

Director, (Vijayawada & Vizianagaram Zone) APSRTC, M.G. Bus Station

(Imlibun), Hyderabad.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring that the impugned order No. P1/813(10)/2003-ED:VJA & VZM, dated 17-11-2003 transferring the petitioner to Zonal Stores Vizianagaram as illegal and consequently to set aside the same, directing the respondents to continue the petitioner at Zonal Stores, Vijayawada.

Counsel for the Petitioner: MR.B.G.RAVINDER REDDY

Counsel for the Respondents: Mr.R. Mandmada Reddy

The Court made the following

ORDER:

Challenging the order No.P1/813(10)/2003-ED:VJA & VZM, dated 17-11-2003 issued by the second respondent-Executive Director, Andhra Pradesh State Road Transport Corporation (Vijayawada and Vizianagaram Zone), Hyderabad, transferring the petitioner from Zonal Stores, Vijayawada to Zonal Stores, Vizianagaram, the present writ petition is filed.

The case of the petitioner is that he is working as Junior Assistant (Materials) at Zonal Stores, Andhra Pradesh State Road Transport Corporation, Vijayawada, since 1988. There are no complaints of whatsoever nature against him in the entire service. As per the Rules the “Zonal Stores” is a unit for the purpose of appointment, transfer and promotion. All of a sudden, by an office order dated 18-08-2003, the petitioner was transferred to Guntur region. As the said transfer is outside the Zonal Stores, Vijayawada, on behalf of the petitioner the Union has submitted a representation dated 25-08-2003 before the respondents. While the matter stood thus, by the impugned order dated 17-11-2003, the petitioner was transferred to Zonal Stores, Vizianagaram and hence, the said transfer is illegal and unjustified.

The respondents filed counter affidavit stating that as per the vigilance enquiry, the petitioner is one among the others found instrumental in circulating false allegations against the respondent-Corporation and the petitioner is in the habit of arranging to publish baseless allegations in the local press.

He was transferred only on administrative reasons and his seniority will be maintained at Zonal Stores, Vijayawada only. He was transferred in accordance with the provisions of Regulation 5 (a) of the Andhra Pradesh State Road Transport Corporation Employees' (Service) Regulations, 1964 (for short 'Regulations') and hence, the writ petition is devoid of merit.

The learned counsel for the petitioner raised two contentions. *Firstly*, the transfer of the petitioner is outside the unit of appointment and therefore, it is illegal and arbitrary. *Secondly*, the order of transfer was made by way of punishment and therefore, it has to be set aside.

On the other hand, the learned Standing Counsel for A.P.S.R.T.C. appearing on behalf of the respondents 1 and 2 contends that since the petitioner was instrumental in circulating false allegations by way of arranging to publish the news item in Andhra Bhoomi on 19-08-2003, he was transferred and posted to Zonal Stores, Vizianagaram, in accordance with the provisions of Regulation 5 (a) of the Regulations. In the said regulation,
it is clearly mentioned that a person of a service or class of a service may be required to serve anywhere and in any post borne on the cadre of such service or class in the Corporation and hence, the order under challenge does not suffer from any incurable legal infirmity so as to call for interference of this Court.

There cannot be any dispute that transfer of an employee during his service is not only an incidental, but also one of the service conditions. An employee has no right to remain at better place of his choice. Unless the order of transfer is made contrary to the rules or service conditions, which govern the service of the petitioner or by way of punishment, or the authority, who ordered for transfer has no jurisdiction, normally this Court will not interfere with the transfer order.
The impugned order has not been challenged on the ground that the authority, who issued that order lacks jurisdiction. The first contention of the learned counsel for the petitioner is that the transfer is outside the unit of appointment. The Unit of appointment is Zonal Stores at Vijayawada. According to the petitioner, he is working at Zonal Stores, Vijayawada since 1988 onwards under Regulation 5(a) of the Regulations, which reads as follows:

> "5 (a). A member of a service or class of a service may be required to serve anywhere and in any post borne on the cadre of such service or class in the Corporation."

From the above provision, it is made clear that an employee working in the Corporation is liable to be served anywhere in the Corporation. No doubt by virtue of transfer order, the employee was transferred from one zone to another zone depriving his promotional aspects in the Zonal Stores in which he was appointed, then certainly the order cannot be made. But here is the case where the seniority of the petitioner will be maintained at Zonal Stores, Vijayawada only. The order under challenge will not deprive any of the service conditions of the writ petitioner in respect of future promotions, pay and allowances etc. Therefore, the contention of the learned counsel for the petitioner that the transfer order was made outside the unit of appointment is not sustainable in view of the Regulation 5 (a) of the Regulations.

The other contention of the learned counsel for the petitioner is that the order of transfer was made by way of punishment. If the respondents want to take any action against the petitioner, they can proceed against him by initiating appropriate departmental enquiry, but not by way of transfer to a far off place, which is nothing but a punishment.

On the other hand, the learned Standing Counsel appearing on behalf of the respondents contends that the petitioner was instrumental in circulating false allegations against the officials of the Corporation and arranging news item to publish in the local press damaging the reputation of the Corporation.

There cannot be any dispute that transfer order cannot be made by way of punishment. The stand taken by the respondents in the counter affidavit is that the transfer is only due to administrative reasons. No doubt, it is mentioned in the affidavit that the petitioner was responsible for getting the news item published in Andhra Bhoomi on 19-08-2003 with false allegations, but no departmental action has been taken as on today. Being an employee of the Corporation, the petitioner is supposed to maintain absolute integrity and is bound by the rules and regulations. If any irregularities are committed by the officials, it is his duty to bring to the notice of the higher officials. Since the transfer is not by way of punishment and it is only on administrative grounds, the contention of the learned counsel for the petitioner cannot be accepted. Therefore, the writ petition is devoid of merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

The interim order, dated 28-11-2003 granted by this Court in W.P.M.P.No.31360 of 2003 is hereby vacated.

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K.C. BHANU, J

Date: 7th June, 2005

Note: Issue CC in one week

(B/o.)

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ASSISTANT REGISTRAR

To

1 The Vice Chairman and Managing Director,

A.P. State Road Transport Corporation, Musheerabad, Hyderabad.

2 The Executive Director,

A.P. State Road, Transport Corporation, (Vijayawada & Vizianagaram Zone)

APSRTC, M.G. Bus Station (Imlibun), Hyderabad.

3 Two CD copies